

**STATE OF CALIFORNIA
REGIONAL WATER QUALITY CONTROL BOARD
SANTA ANA REGION**

In the matter of:)	Order No. R8-2007-0085
)	for
The City of Villa Park)	Administrative Civil Liability
17855 Santiago Blvd.)	
Villa Park, CA 92861)	
)	
Attention: Kenneth Domer)	

The California Regional Water Quality Control Board, Santa Ana Region (hereinafter Board), held a regularly scheduled meeting on November 30, 2007 and considered the allegations and settlement agreements contained in Complaint No. R8-2007-0059 (revised), dated November 9, 2007. The Board finds as follows:

1. The City of Villa Park (the City) is a co-permittee under the National Pollutant Discharge Elimination System (NPDES) Permit No. CAS618030, Areawide Urban Storm Water Runoff Permit for Orange County and the Incorporated Cities, Waste Discharge Requirements Order No. R8-2002-0010 (MS4 Permit). The current MS4 permit is the third term of this permit, having been originally adopted in 1990, and renewed in 1996 and 2002. On February 1, 2006, Board staff conducted an audit of the City's MS4 program as part of an assessment of the overall County-wide program. That audit was designed to examine both the effectiveness of the program, as implemented by the City, as well as the effectiveness of field program execution. Findings from this audit identified several significant violations within the City's MS4 program.
2. On September 6, 2006, an evaluation report based on the audit was submitted to the City, and on October 20, 2006, the City provided a response to the evaluation report. While the City's response addressed some of the concerns identified in the audit evaluation report, there remained extensive shortcomings in the City's storm water program that could not be justified. Based upon the audit's findings and the City's response, a subsequent Notice of Violation, dated May 18, 2007, was issued to the City for alleged violations of the MS4 Permit.
3. Water Code Section 13385(a)(2) provides that any person who violates waste discharge requirements issued pursuant to Federal Clean Water Act shall be civilly liable. Section 13385(c) provides that civil liability may be administratively imposed by a regional board in an amount no to exceed \$10,000 per day of violation. The total maximum liability for the alleged violations of the MS4 Permit by the City as of February 1, 2006 (the date of the MS4 program evaluation audit) is \$80,350,000.
4. On August 2, 2007, the Executive Officer issued Administrative Civil Liability Complaint No. R8-2007-059 to the City proposing that the Board impose a penalty of \$115,780 for

the violations cited (this included \$98,280 in estimated cost savings + Board staff costs of \$17,500).

5. After issuance of the original Complaint, two (2) meetings were held between City staff and Regional Board staff, where the City questioned the inclusion of staff costs as a separate item in calculating the proposed assessment given that that had not been done in the previous four civil liability complaints for Orange County MS4 permittees. Further, the City provided information regarding the City's inability to pay an assessment the size of the proposed assessment and additional information was provided on the relative size of the assessment and size/revenue of City when compared to assessments issued to other municipalities in previous actions. Based on the additional information provided by the City, it was decided by Regional Board staff to adjust the proposed assessment to cover only the estimated cost savings of \$98,280 and to suspend \$50,000 of the \$98,280, provided the City comes into substantial compliance with the MS4. When the City complies with the conditions of suspension as listed in Complaint No. R8-2007-0059 (revised), the \$50,000 is considered forgiven and no longer due and payable. The \$17,500 in Board staff costs was waived.
6. Issuance of this Order is exempt from the provisions of the California Environmental Quality Act (Public Resources Code Section 2100 et seq.) in accordance with Section 15321, Chapter 3, Title 14, California Code of Regulations.

IT IS HEREBY ORDERED that, pursuant to California Water Code Section 13385(c) an administrative civil liability shall be imposed on the City of Villa Park, in the amount of \$98,280, as proposed in Complaint No. R8-2007-059 (revised) for the violations cited, payable as set forth below.

1. The City of Villa Park shall pay \$48,280 to the State Water Resources Control Board by December 30, 2007.
2. The Board suspends \$50,000 of the assessed amount as per conditions stipulated in the revised Complaint. When the City complies with the conditions of suspension identified in the Complaint, the \$50,000 is considered forgiven and no longer due and payable.

The Executive Officer is authorized to refer this matter to the Attorney General for enforcement.

Pursuant to Water Code Section 13320, you may petition the State Water Resources Control Board for review of this Order. If you choose to do so, you must submit the petition to the State Board within 30 days of the Regional Board's adoption of this Order.

I, Gerard J. Thibeault, Executive Officer, do hereby certify that the foregoing is a full, true, and correct copy of an order adopted by the California Regional Water Quality Control Board, Santa Ana Region, on November 30, 2007.

Gerard J. Thibeault
Executive Officer